

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 January 2024

DOCKET NUMBER: AR20230005965

APPLICANT REQUESTS: the characterization of his service be changed to from “uncharacterized” to “honorable.”

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) benefits letter

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states that after he received a VA disability for a back injury his paperwork stated his discharge had been changed to honorable and he was advised to have his DD Form 214 (Certificate of Release or Discharge from Active Duty) changed to get a VA ID card.
3. The applicant enlisted in Regular Army for 4 years on 30 April 2002. He was assigned to Fort Benning, GA for training; however, he did not complete his initial active duty for training and was not awarded an MOS.
4. The available records do not contain any documentation of his service except for a DA Form 2-1 (Personal Qualification Record), that does not contain any clarifying information, and a DD Form 214.
5. The applicant was discharged on 11 June 2003 in the grade of E-1. His DD Form 214 shows he was discharged under Army Regulation 635-200 (Personnel Separations), Chapter 5, for a disability determined by a medical board as having existed prior to service with an uncharacterized character of service, a Separation Code of KFN and a Reentry Code of 3. He had 1 year and 12 days of net active service, with 105 days in excess leave (10 March 2003 to 22 June 2003).

6. The available record does not include any service medical records or a copy of the medical board.

7. The applicant provided a copy of a VA letter affording him a VA verification of honorable service and a summary of benefits letter that states his service was "under honorable conditions and that he had a 10 percent disability rating (what the condition was is not included.)

8. In determining whether to grant relief the Board can consider the applicant's petition, arguments and assertions, and service record in accordance with the published equity, injustice, or clemency guidance.

BOARD DISCUSSION:

contentions, the military record, and regulatory guidance were carefully considered. The applicant's separation packet is not available for review. However, his DD Form 214 shows he entered active duty on 30 May 2002. Separation action was initiated against him for a preexisting condition. He did not complete initial entry training and was not awarded an MOS. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. As such, his DD Form 214 properly shows his service as uncharacterized. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

3. Title 38 Current Federal Regulation governs the practices and policies of the Department of Veterans Affairs. The regulation authorizes the VA to render administrative decisions to determine if the circumstances of a service member's separation meet their criteria for granting a determination that a service member's service was under honorable conditions for VA purposes.

4. Army Regulation 635-200 sets forth the basic authority for the separation of enlisted personnel.

a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. An uncharacterized discharge is issued if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

c. Chapter 5 (Separation for Convenience of the Government) states unless the reason for separation requires a specific characterization, a Soldier being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conditions, or an uncharacterized description of service if in entry-level status.

d. Paragraph 5-11 provided that Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment or who became medically disqualified under these standards prior to entrance on active duty, active duty for training, or initial entry training would be separated. Medical proceeding, regardless of the date completed, must establish that a medical condition was identified by appropriate medical authority within 6 months of the Soldier's initial entrance on active duty, that the condition would have permanently or temporarily disqualified the Soldier for entry into military service had it been detected at that time, and the medical condition did not disqualify the Soldier from retention in the service under the provisions of Army Regulation 40-501 (Standards of Medical Fitness).

e. The character of service for Soldiers separated under this provision would normally be honorable, but would be uncharacterized if the Soldier was in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

5. The Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records on 25 July 2018 [Wilkie Memorandum], regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//